

GENERAL CONDITIONS OF SALE

NON-NUCLEAR USE BUYER UNDERSTANDS AND AGREES THAT NO PROPERTY HEREIN MAY BE USED BY BUYER IN, OR RESOLD BY BUYER FOR USE IN A NUCLEAR FACILITY.

1. DISCLAIMER OF WARRANTY. ALL PROPERTY IS OFFERED FOR SALE "AS IS, WHERE IS" AND WITHOUT RECOURSE AGAINST TVA. THE DESCRIPTION IS BASED ON THE BEST AVAILABLE INFORMATION; BUT TVA MAKES NO GUARANTY, WARRANTY, OR REPRESENTATION, EXPRESSED OR IMPLIED, AS TO QUANTITY, KIND, CHARACTER, QUALITY, WEIGHT, SIZE, OR DESCRIPTION OF ANY OF THE PROPERTY, ITS MERCHANTABILITY, OR ITS FITNESS FOR ANY USE OR PURPOSE; AND NO CLAIM WILL BE CONSIDERED FOR ALLOWANCE OR ADJUSTMENT OR FOR RECESSON OF THE SALE BASED UPON ANY OF THE FOREGOING FACTORS OR UPON FAILURE OF THE PROPERTY TO MEET BUYER'S STANDARD.

2. CONTRACTING OFFICER. The Contracting Officer shall be the Senior Vice President - Procurement, TVA, or a duly authorized representative. The Contracting Officer will act for TVA for all purposes in the administration of this agreement. Copies of all correspondence and notices from Buyer relating to this agreement and its performance shall be furnished to the Contracting Officer. No changes shall be made or extras allowed without the written consent of the Contracting Officer.

3. PAYMENT. Payment by US domestic firms shall be by Electronic Funds Transfer (account information available from Contracting Officer), certified check, cashier's check, bank draft, or postal or express money order payable to **Tennessee Valley Authority, TVA Treasurer, Post Office Box 480, Knoxville, Tennessee 37901-0480**. If any single payment due under this agreement is for an amount of \$1,000,000 or more, payment shall be made by wire transfer to TVA's account with the U. S. Treasury as instructed by TVA. Payment by international buyers shall ONLY be by Confirmed Irrevocable Letter of Credit. Unless otherwise permitted by TVA, payment of the full purchase price, subject to any adjustment for variation in quantity or weight under General Condition of Sale **QUANTITY AND WEIGHT** herein must be made within 10 calendar days from date of sale and before release of any property. If an adjustment is made, payment must be completed immediately thereafter unless otherwise permitted by TVA. Buyer shall pay TVA interest at the rate payable under the Prompt Payment Act (Title 31 U.S. Code Sections 3907) on any overdue amount. Interest shall run from the date payment is due under this agreement until the date TVA receives payment or the date the remittance is postmarked, whichever is earlier. Payment of interest shall be due thirty (30) days after TVA's invoice for such interest is dated. Notwithstanding the above, if Buyer fails to make full and final payment as herein provided, TVA reserves the right upon written notice to Buyer, to sell or otherwise dispose of any or all such property in TVA's possession and to charge the loss or other extra expense, if any, to defaulting Buyer. Resale of the property by original Buyer will not relieve it from full compliance with the provisions of this agreement.

4. INSPECTION. Because of the General Condition of Sale **DISCLAIMER OF WARRANTY** herein, Buyer is invited and urged to inspect the property to be sold. Property will be available for inspection at negotiated places and times. Unless otherwise agreed to in advance by TVA and Buyer, TVA will not furnish any labor or equipment for such inspection. Inspection may be made any day except Saturdays, Sundays, and holidays, generally between the hours of 8 a.m. and 3 p.m. Failure to inspect will not constitute grounds for a claim or for the withdrawal of a purchase.

5. TITLE, RISK OF LOSS, AND TVA LIABILITY. Title to the property sold hereunder shall vest in Buyer only upon full payment being made to TVA except that if this agreement provides for loading to be performed by TVA, the title shall not vest in Buyer until both loading and payment are completed. TVA will furnish a certificate of release form TVA 97 for each piece of equipment requiring licensing by a state. On all purchases, Buyer will use this agreement for securing release of property. Before passage of title to Buyer, TVA will be responsible for the care and protection of the property, and any loss, damage, or destruction occurring during such period will be adjusted by the Contracting Officer by appropriate changes in this agreement price. After passage of title to Buyer, and before the date specified for removal, TVA's responsibility will be limited to the exercise of reasonable care for the protection of the property. After the date specified for the removal of the property, all risk of loss, damage, or

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destruction from any cause whatsoever shall be borne by Buyer. In any case where liability of TVA to Buyer has been established TVA's liability shall not, in any event or for any reason, exceed refund of the purchase price or such portion thereof as TVA may have received.

6. QUANTITY AND WEIGHT. The estimates of quantity or weight of the various lots, as shown, are only for the general guidance of Buyer; and any discrepancy between estimated and actual quantity or weight will not affect the validity of the sale or be considered the basis of a claim. When lots are sold on a quantity or weight basis, Buyer will be required to pay the unit price times the actual quantity or weight of all property in the lot. In the event that a shortage exists, TVA will adjust the sales price based on the item's actual quantity. Any refund due Buyer shall be made by TVA as soon as practicable but not later than thirty (30) days after the property is removed or the property is determined to be unavailable. Any additional payment due TVA shall be paid by Buyer within thirty (30) days after the final shipping date and shall be remitted as required under General Condition of Sale **PAYMENT** herein. When lots are sold on a "price for the lot" basis, Buyer will be required to pay the price for the lot, regardless of actual weight or quantity.

7. WEIGHT VERIFICATION. Unless otherwise provided, where weighing is necessary to determine the basis for payment, Buyer shall arrange for and pay all weighing expenses, including any rail switching charges incurred. If removal is by truck, weighing shall be under the supervision of TVA and at its option on (a) TVA scales, (b) certified scales in the vicinity of the location of the property or (c) other scales acceptable to both parties. When removal is by rail, weighing shall be on railroad track scales or by other means acceptable to the railroad for freight charge purposes TVA approved weighing shall govern payment.

8. TAXES, LEVIES, AND ASSESSMENT. The purchase price will be exclusive of, and Buyer shall be responsible for, all applicable taxes, levies, assessments, etc., arising out of or in any way connected with the sale, removal, transportation, possession (after loading), or use of the property sold.

9. PACKAGING AND SHIPPING. When property is sold F. O. B. carrier and payment is made in accordance with this agreement, Buyer shall send written shipping instructions to the Contracting Officer. Unless otherwise provided in this agreement, TVA will perform normal crating and packaging, and will load Buyer's property on Buyer's designated carrier. TVA will not dismantle, disassemble, cut, or otherwise prepare the property to suit the convenience of the designated carrier or conveyance. Also, TVA will not arrange for or package, crate, or otherwise prepare property requiring special export shipment preparations. TVA will not be responsible for securing the load to the carrier.

10. RELEASE AND REMOVAL OF PROPERTY. Unless otherwise permitted by TVA Contracting Officer, the property purchased shall be removed from TVA premises within thirty (30) calendar days after the Sales Agreement Performance Date. No release will be made on Saturdays, Sundays, or holidays, or during other than TVA's regularly scheduled day shift work hours. Buyer shall reimburse TVA for any damage to TVA property caused by the removal operations. If Buyer fails to remove the property within the specified time, TVA shall have the right to assess Buyer a reasonable storage charge if the property is stored on premises owned or controlled by TVA or store the property elsewhere for Buyer's account, and all cost incident to such storing including handling and moving charges shall be paid by Buyer. If the purchased property has not been removed by Buyer within thirty (30) days after the Sales Agreement Performance Date, TVA will so notify Buyer in writing of the expired removal time. After being so notified, if Buyer has not removed the purchased property within sixty (60) days after the Sales Agreement Performance Date, title to the purchased property shall revert to TVA. TVA shall have the right to dispose of the property by sale or otherwise without further notice to Buyer. Any details regarding removal of the property not already provided for shall be arranged with the Contracting Officer and shall be in writing. TVA will release property to designated third persons upon receipt of instructions in writing from original Buyer. Buyer is invited to have a representative present to witness the checking, measuring, or weighing of the property as no claims involving shortages or other discrepancies will be allowed after release or removal.

11. WORK STANDARDS. Buyer, during removal of surplus property from TVA premises, shall comply with applicable Occupational Safety and Health (OSHA) regulations and other applicable requirements for the protection of workers. It shall be the responsibility of Buyer to initiate and maintain such programs as may be necessary to comply with the foregoing requirements at all times. The TVA project/site manager shall have the right,

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but not the responsibility, to inspect Buyer's operations as he/she may deem necessary. If TVA notifies Buyer of any deficiencies and Buyer fails or refuses to promptly correct an unsafe or unhealthful condition, the TVA project/site manager shall have the authority to issue an order stopping all or part of the work being performed under the provisions of this agreement until Buyer assumes sole responsibility for safety in all removal operations undertaken pursuant to this agreement. As appropriate, the TVA project/site manager and Buyer will meet to discuss these requirements and their application.

12. SHIPPING REGULATIONS. In the event any equipment, material, or other items specified in this agreement are delivered to TVA or transported from a TVA construction site or facility by motor vehicle, Buyer, its subcontractors, and haulers shall comply with applicable federal and state highway weight limitation laws and regulations. Also, Buyer's trucks or other conveyances shall be capable of safely carrying the material. Buyer shall be responsible for securing the load in accordance with regulations of the Federal Highway Administration at Title 49. Code of Federal Regulation, Part 393, or other applicable regulations which are hereby incorporated by reference. TVA may refuse to load any truck or other conveyance which is not in compliance with this provision or when, in TVA's opinion, loading the material would create an unsafe condition. Notwithstanding the above, Buyer assumes sole responsibility for safety in securing the load and transporting the material. Notwithstanding the preceding, failure to comply with such laws and regulations shall constitute a breach of this agreement; and TVA shall have the right, upon written notice to Buyer, to terminate Buyer's right to proceed as provided in the General Conditions of Sale **DELAYS AND REMEDIES** herein.

13. INDEMNITY. When property is removed from TVA premises by Buyer, Buyer shall take all responsibility for the work and shall take all necessary precautions for preventing injury to persons and property. Buyer is aware of the location, nature, and hazards of such removal work. Buyer releases and protects TVA, its agents, and employees from all liability for Buyer's personal injuries, property damage, or loss of life or property arising out of or in any way connected with this agreement. Buyer will indemnify TVA, its agents, and employees and save each of them harmless from any and all liability to Buyer's employees or any other third parties for personal injuries, property damage, or loss of life or property resulting from or in any way connected with this agreement. The foregoing release and indemnification shall apply even though the personal injuries, property damage, or loss of life or property is caused, occasioned, or contributed to by the negligence, sole or concurrent, of TVA, its agents, or employees. Buyer shall bear all expenses incurred by TVA, its agents, or employees in defending all claims and actions for damages arising out of the foregoing injuries, damages, or losses and shall pay all judgments that may be rendered on such actions.

14. CHANGES. No changes in or modifications of this agreement are effective and binding upon TVA unless they are in writing and signed by the Contracting Officer. Requests for any changes from Buyer may not be considered unless they are in writing.

15. DELAYS AND REMEDIES. If Buyer does not complete this agreement within the time specified, or assigns or encumbers any interest in it without prior written consent of TVA, or is thrown into receivership or adjudicated as bankrupt, or does not prosecute the work, or any separable part thereof, with such diligence as, in the opinion of the Contracting Officer, will ensure its completion within the notices from TVA, then TVA, by written notice to Buyer may terminate Buyer's right to proceed with all or any part of this agreement and may dispose of the purchased property by sale or otherwise without further notice to Buyer. Any loss, including but not limited to additional resale costs, occasioned by resale or disposal under this General Condition of Sale or General Condition of Sale **RELEASE AND REMOVAL OF PROPERTY** herein, will be charged against Buyer and may be deducted from Buyer's payment, however, after deducting the amount of such loss from Buyer's payment, TVA will refund the balance, if any to Buyer, **PROVIDED** that if Buyer within seven (7) calendar days from the beginning of any delay notifies the Contracting Officer in writing of the causes of delay, the right of Buyer to proceed shall not be terminated when, in the judgment of the Contracting Officer, all of Buyer's delay is due to unforeseen causes beyond Buyer's control and without its fault, such as acts of God or of the public enemy, acts or omissions on the part of TVA, fires, epidemics, quarantines, strikes, freight embargo's, priorities ordered by the United States Government, or unforeseeably severe weather or floods. Buyer's delays due to delays of its subcontractors will not be excusable under this provision unless, in judgment of the Contracting Officer, the delay of the subcontractors was also due to causes beyond their control and without their fault, such as the causes listed above. The Contracting Officer shall determine the cause and extent of the delays and shall extend the time for completion

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when, in his/her judgment, the facts justify such an extension. The Contracting Officer's determination of causes and any extension of time shall be final and conclusive.

Even if a delay in completion of this agreement is excusable under the foregoing provisions, TVA may terminate Buyer's right to proceed with all or any part of this agreement if, in the opinion of the Contracting Officer, such termination would be in the best interest of TVA. In such a case, this agreement shall be equitably adjusted to compensate for such termination and this agreement modified accordingly.

To allow or to require completion of this agreement after the specified time for completion shall not constitute an extension of time or a waiver of any right or remedy which TVA may have hereunder or at law on account of Buyer's delay. No extension of time shall operate to release the surety from any of its obligations.

16. WAIVERS AND REMEDIES. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All rights and remedies afforded TVA in this agreement shall be taken and constructed as cumulative. That is, in addition to every other right and remedy provided under this agreement or by law.

17. PERSONS NOT TO BENEFIT. No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom unless it be made with a corporation for its general benefit, nor shall Buyer offer or give, directly or indirectly, to any officer, employee, special government employee, or agent of TVA any gift gratuity, favor, entertainment, loan, or any other thing of monetary value, except as provided in 5 C.F.R. Part 2635, subpt. B, as such provisions may subsequently be amended, supplemented, or replaced. No sale will be made directly or indirectly to any person employed by TVA whose duties involved the handling of the property and/or the records from which lists of property to be offered for sale are prepared. A purchase by or upon behalf of a TVA employee will not be recognized unless Buyer declares that it is by or upon behalf of a TVA employee and that such employee desires the property for personal use and not for speculative resale. TVA may impose quantity or other appropriate restrictions on property that may be sold to a TVA employee. Breach of this provision shall constitute a material breach of this agreement.

18. RESTRICTIONS ON SALES TO TVA EMPLOYEES AND CERTAIN FORMER TVA EMPLOYEES. TVA employees and former employees (defined as those persons who left TVA within two years of this Sale Agreement Performance Date) who have information not generally available to the public about the quality, value, or condition of the items are prohibited from buying such property unless it falls within the scope of a departing employee exception or when a price has been pre-established for all items. A TVA employee who is not already prohibited from purchasing surplus property, as set forth above, may purchase property only as permitted by General Condition of Sale, **PERSONS NOT TO BENEFIT** herein, and TVA Business Practice 9. Sales made in violation of this condition may be voided at TVA's option.

19. LEGAL PROCEEDINGS. This agreement shall be governed by and construed under, Federal law. Any lawsuit brought against TVA arising out of or related to this agreement or the breach thereof, whether sounding in tort, contract, or otherwise, shall be filed in the United States District Court for the Eastern District of Tennessee. The parties irrevocably waive any right to trial by jury and agree that all matters in any such action shall be determined by the court. The parties may agree to use alternative disputes resolution procedures.

20. ENTIRE AGREEMENT. This agreement contains the entire agreement and understanding between the parties. There are no oral understandings, terms, or conditions not contained in this agreement. Neither party has relied on any representations not contained in this agreement. All prior understandings, terms, or conditions are deemed merged in this agreement and may not be changed or supplemented orally by either party.

21. ACCEPTANCE BY BUYER OF TVA'S TERMS AND CONDITIONS. Buyer accepts in full these General Conditions of Sale. Fulfillment of this order by TVA will take place only under these General Conditions of Sale and any additional terms and conditions attached hereto or incorporated by reference herein.